



KUHARSKI
LEVITZ
GIOVINAZZO

November 25, 2019

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United States District Court
Southern District of New York
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MEMO ENDORSED

Butler v. Suria ; 1:17-cv-03077-KPF

To the Court:

As the Court is aware this matter is scheduled for trial on December 2, 2019. Plaintiff's expert, Kristin Kucsma, M.A. is available to testify anytime on December 2, 2019, but she is not available to testify on December 3 or December 4.

I contacted the attorney for the plaintiff today and asked if he would agree to take Ms. Kucsma testimony out of turn. Counsel for the plaintiff informed me that he would not agree to take her testimony out of turn.

As the Court may remember, when this trial was adjourned the first time because of scheduling issues for plaintiff's counsel the Court indicated they would accommodate the plaintiff's expert's schedule. Defendant is now requesting a similar accommodation and asks that the Court issue an Order allowing defendant's expert, Kristin Kucsma, M.A. to testify out of turn and to testify at 2:00pm on December 2, 2019.

I appreciate your consideration of defendant's application.

Attorneys for Defendant

Lonny Levitz, for Kuharski, Levitz &
Giovinazzo, Esqs.

Application DENIED. The Court anticipates that, once jury selection has been completed, and opening statements presented, time will permit only a single witness to testify on December 2, 2019. The Court will not allow the first witness presented at trial to be Defendant's expert.

Dated: November 25, 2019
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla". The signature is written in a cursive, flowing style.

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE